

**UNITED STATES COURT OF APPEALS  
for the  
SECOND CIRCUIT**

**NOTICE OF RULE CHANGE**

The United States Court of Appeals for the Second Circuit hereby gives notice of interim changes and proposed permanent changes in its Local Rules, and invites comment thereon. The new rule will go into effect immediately on an interim basis. Comments should be submitted in writing no later than December 29, 2006. Comments may be mailed to, or filed with:

Thomas Asreen  
Acting Clerk of the Court  
United States Court of Appeals for the Second Circuit  
40 Foley Square, Room 1802  
New York, NY 10007

The Interim and proposed permanent Local Rule 0.23 is as follows. (Comparison of text with preexisting Local Rule 0.23 is set forth below.)

**Local Rule 0.23. Dispositions by Summary Order**

(a) Use of Summary Orders

The demands of contemporary case loads require the court to be conscious of the need to utilize judicial time effectively. Accordingly, in those cases in which decision is unanimous and each judge of the panel believes that no jurisprudential purpose would be served by an opinion (i.e., a ruling having precedential effect), the ruling may be by summary order instead of by opinion.

(b) Precedential Effect of Summary Orders

Rulings by summary order do not have precedential effect.

(c) Citation of Summary Orders

(1) Citation to summary orders filed after January 1, 2007, is permitted.

(A) In a brief or other paper in which a litigant cites a summary order, in each paragraph in which a citation appears, at least one citation must either be to the Federal Appendix or be accompanied by the notation: "(summary order)."

(B) Unless the summary order is available in an electronic database which is publicly accessible without payment of fee (such as the database available at <http://www.ca2.uscourts.gov/>), the party citing the summary order must file and serve a copy of that summary order together with the paper in which the summary order is cited. If no copy is served by reason of the availability of the order on such a database, the citation must include reference to that database and the docket number of the case in which the order was entered.

(2) Citation to summary orders filed prior to January 1, 2007, is not permitted in this or any other court, except in a subsequent stage of a case in which the summary order has been entered, in a related case, or in any case for purposes of estoppel or res judicata.

(d) Legend

Summary orders filed after January 1, 2007, shall bear the following legend:

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to summary orders filed after January 1, 2007, is permitted and is governed by this court's Local Rule 0.23 and Federal Rule of Appellate Procedure 32.1. In a brief or other paper in which a litigant cites a summary order, in each paragraph in which a citation appears, at least one citation must either be to the Federal Appendix or be accompanied by the notation: "(summary order)." Unless the summary order is available in an electronic database which is publicly accessible without payment of fee (such as the database available at <http://www.ca2.uscourts.gov/>), the party citing the summary order must file and serve a copy of that summary order together with the paper in which the summary order is cited. If no copy is served by reason of the availability of the order on such a database, the citation must include reference to that database and the docket number of the case in which the order was entered.

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Comparison of Interim Rule with preexisting Local Rule:

**Local Rule 0.23. Dispositions in Open Court or by Summary Order**

**(a) Use of Summary Orders**

The demands of ~~an expanding contemporary~~ case loads require the court to be ~~ever~~ conscious of the need to utilize judicial time effectively. Accordingly, in those cases in which decision is unanimous and each judge of the panel believes that no jurisprudential purpose would be served by ~~a written opinion, disposition will be made in open court or~~ an opinion (i.e., a ruling having precedential effect), the ruling may be by summary order.

~~Where decision is rendered from the bench, the court may deliver a brief oral statement, the record of which is available to counsel upon request and payment of transcription charges.~~  
~~Where disposition is~~ instead of by opinion.

**(b) Precedential Effect of Summary Orders**

Rulings by summary order, ~~the court may append a brief written statement to that order.~~  
~~Since these statements do not constitute formal opinions of the court and are unreported or not uniformly available to all parties, they shall not be cited or otherwise used in unrelated cases before~~ do not have precedential effect.

(c) Citation of Summary Orders

(1) Citation to summary orders filed after January 1, 2007, is permitted.

(A) In a brief or other paper in which a litigant cites a summary order, in each paragraph in which a citation appears, at least one citation must either be to the Federal Appendix or be accompanied by the notation: "(summary order)."

(B) Unless the summary order is available in an electronic database which is publicly accessible without payment of fee (such as the database available at <http://www.ca2.uscourts.gov/>), the party citing the summary order must file and serve a copy of that summary order together with the paper in which the summary order is cited. If no copy is served by reason of the availability of the order on such a database, the citation must include reference to that database and the docket number of the case in which the order was entered.

(2) Citation to summary orders filed prior to January 1, 2007, is not permitted in this or any other court, except in a subsequent stage of a case in which the summary order has been entered, in a related case, or in any case for purposes of estoppel or res judicata.

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**UNITED STATES COURT OF APPEALS**  
**for the**  
**SECOND CIRCUIT**

**At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 17th day of November, two thousand and six,**

**PRESENT:** Hon. Dennis Jacobs, *Chief Judge*  
Hon. Guido Calabresi  
Hon. José A. Cabranes  
Hon. Chester J. Straub  
Hon. Rosemary S. Pooler  
Hon. Robert D. Sack  
Hon. Sonia Sotomayor  
Hon. Robert A. Katzmann  
Hon. Barrington D. Parker  
Hon. Reena Raggi  
Hon. Richard C. Wesley  
Hon. Peter W. Hall



**IT IS HEREBY ORDERED**, that the Local Rules of the United States Court of Appeals for the Second Circuit are hereby amended on an interim basis effective immediately by the adoption of Interim Local Rule 0.23, which is set forth below and replaces the current Local Rule 0.23. The Court proposes furthermore to adopt Interim Local Rule 0.23 on a permanent basis following publication for notice and comment. The Clerk of the Court shall publish the new Interim Rule and Proposed Permanent Rule inviting comment to be submitted by December 29, 2006. Anyone wishing to comment should do so, in writing, to the Clerk of Court, 40 Foley Square, Room 1802, New York, NY 10007.

**Interim Local Rule 0.23. Dispositions by Summary Order**

(a) Use of Summary Orders

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(b) Precedential Effect of Summary Orders

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**IT IS SO ORDERED.**

FOR THE COURT:

/s/Thomas Asreen

Thomas Asreen

Acting Clerk of Court